

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEW HAMPSHIRE**

RICHARD DASCHBACH, individually  
and on behalf of all others similarly  
situated,

*Plaintiff,*

v.

ROCKET MORTGAGE, LLC, a Michigan  
limited liability company,

*Defendant.*

Case No. 1:22-cv-00346-JL

**DECLARATION OF TAYLOR T. SMITH IN  
SUPPORT OF PLAINTIFF’S OPPOSITION  
TO DEFENDANT’S MOTION TO COMPEL  
ARBITRATION**

I, Taylor T. Smith, declare as follows:

1. I am an attorney with the law firm Woodrow & Peluso, LLC and counsel of record for Plaintiff Richard Daschbach (“Plaintiff” or “Daschbach”).
2. On September 2, 2022, Plaintiff filed the instant action alleging wide-scale violations of the Telephone Consumer Protection Act, 47 U.S.C. § 227 (“TCPA” or “Act”) and New Hampshire state telemarketing laws (dkt. 1), which was later amended on November 4, 2022 (dkt. 10).
3. After the lawsuit was filed, counsel for Defendant Rocket Mortgage, LLC (“Defendant” or “Rocket Mortgage”) sent Plaintiff’s counsel a letter dated October 17, 2022. In the letter, Rocket Mortgage claimed that Daschbach visited a different website, LowerMyBills.com and completed a different form that resulted in the calls.
4. During conferrals, Rocket Mortgage’s counsel clarified that it no longer claimed that Daschbach visited LowerMyBills.com. Instead, on October 24, 2022, Rocket Mortgage disclosed that it now asserted that Daschbach visited [refinance.enhancedrefinow.com](https://refinance.enhancedrefinow.com), a website operated by LMB Mortgage Services, Inc. d/b/a LowerMyBills.com (“LMB”).
5. Attached as Exhibit 1 to this Declaration are true and accurate copies of the disclosures analyzed in *Berman v. Freedom Fin. Network, LLC*, 30 F.4th 849 (9th Cir. 2022).

6. Attached as Exhibit 2 to this Declaration are true and accurate copies of the disclosures analyzed in *Cullinane v. Uber Techs., Inc.*, 893 F.3d 53, 57-58 (1st Cir. 2018).

7. Attached as Exhibit 3 to this Declaration are true and accurate copies of the disclosures analyzed in *Shirley v. Rocket Mortg.*, No. 2:21-CV-13007, 2022 WL 2541123, ECF No. 9-5 pgs. 12-13, 16-17 (E.D. Mich. July 7, 2022).

8. Attached as Exhibit 4 to this Declaration is a true and accurate copy of the disclosure analyzed in *Rodriguez v. Experian Servs. Corp.*, No. 2:15-cv-03553-R-MRW ECF No. 24-2 (C.D. Cal. Oct. 5, 2015).

9. Attached as Exhibit 5 to this Declaration is a true and accurate copy of the disclosure analyzed in *Hill v. ActiveProspect, Inc.*, No. 5:20-cv-01351-JGB-KK, ECF No. 43-7 pg. 16 (C.D. Cal. July 16, 2021).

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct. Executed on December 20, 2022, in Denver, Colorado.

/s/ Taylor T. Smith

Taylor T. Smith (*admitted pro hac vice*)  
tsmith@woodrowpeluso.com  
Woodrow & Peluso, LLC  
3900 East Mexico Avenue, Suite 300  
Denver, Colorado 80210  
Telephone: (720) 907-7628  
Facsimile: (303) 927-0809  
*Counsel for Plaintiff and the Class*

# Exhibit 1

## Appendix A

Samples & Savings

TERMS | PRIVACY POLICY

## Welcome back, stephanie!



Confirm your ZIP Code Below:


93930

I understand and agree to the [Terms & Conditions](#) which includes mandatory arbitration and class action waiver.

☒ I AGREE to receive daily emails from Samples&Savings and SweepstakesAlerts.


This is correct, Continue! »

### Getting Free Stuff Has Never Been Easier!




**JOIN US!**

Sign up and join our community of millions of users just like you on the prowl for samples, coupons, and freebies!



**EXPLORE!**


We will not only match you with products you are most interested, but you'll also be able to browse all samples we have available at the time.



**SAVE BIG!**


Let us provide you with freebies, trials, and samples that you'd typically be spending hard earned money on.

### Getting Free Stuff Has Never Been Easier!




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Sign up and join our community of millions of users just like you on the prowl for samples, coupons, and freebies!



**EXPLORE!**

We will not only match you with products you are most interested, but you'll also be able to browse all samples we have available at the time.



**SAVE BIG!**

Let us provide you with freebies, trials, and samples that you'd typically be spending hard earned money on.

There is no purchase necessary to access our list of ideas for samples but you do need to provide personal information, respond to survey questions and agree to be contacted by our marketing partners to qualify for a sample collection. By visiting the website and participating, you agree to the Terms & Conditions, which includes mandatory arbitration, and our Privacy Policy under which you allow us to share your personal information with our marketing partners who may also contact you via email, or if you separately consent, by telephone or text message. Message and data rates may apply. Reply "STOP" to cancel. For customer service, reply "HELP". Sign up to receive data is not from Samples and Savings. You may receive up to a maximum of 10 offers not related any of the above, with no more than 4 free trials in one day. We may be compensated for connecting our marketing partners with consumers who may be interested in their products or services. We may substitute other products.

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Privacy Policy | Terms & Conditions

American Prize Center LLC  
128 Court Street, 3rd Floor  
White Plains, NY 10601


## 20 BERMAN V. FREEDOM FINANCIAL NETWORK

### Appendix B

Shipping Information Required



Item #5160300095421



Complete your shipping information  
to continue towards your reward

First Name

Last Name

Street Address

ZIP Code

Telephone

Date of Birth:


MM DD 1923

Select Gender:

Male Female

I understand and agree to the [Terms & Conditions](#) which includes mandatory arbitration and [Privacy Policy](#).

Continue »

 Includes Express Shipping

NATIONAL CONSUMER CENTER

Program Requirements - Updated March 23, 2017. To earn an incentive, you must: 1) be a U.S. resident 18 years or older; 2) provide accurate and complete registration information; 3) complete the survey questions; 4) view optional offers; and 5) complete the requisite number of Silver, Gold and Platinum offers which are split into two tiers based on the incentive's value. For Tier 1 incentives with a value of \$100 or less, complete 1 Silver, 1 Gold and 2 Platinum offer. For Tier 2 incentives with a value of more than \$100, complete 1 Silver, 1 Gold, and 8 Platinum offers. You must complete all offers within 20 days from when you complete your first offer. Completion of offers usually requires a purchase or entering into a paid subscription program for goods or services. Incentives are limited to one incentive of any kind per household (persons living at the same address) within any twelve calendar month period provided you must wait 24 calendar months after you claim a Tier 2 incentive before you can claim another Tier 2 incentive. The [Representative Offer Chart](#) describes the terms of several offers including a description of the offer, the initial commitment, ongoing obligations and how to cancel. We reserve the right to substitute a gift card of greater or equivalent value for any incentive. Failure to submit accurate registration information, complete the survey questions or comply with claim verification process will result in disqualification. SOLVING A PUZZLE, PROVIDING YOUR REGISTRATION INFORMATION, COMPLETING THE SURVEY OR VIEWING OPTIONAL OFFERS WITHOUT COMPLETING THE NUMBER OF REQUIRED OFFERS SPECIFIED ABOVE, DOES NOT QUALIFY YOU FOR AN INCENTIVE. We verify your registration information and if it's inaccurate, the pages with the Gold, Silver and Platinum offers may not be displayed. If that happens, you won't be eligible to earn an incentive.

By participating, you agree to the [Terms & Conditions](#) which includes mandatory arbitration and [Privacy Policy](#), which includes your consent to our sharing your personally identifiable information with our Marketing Partners for which we may be compensated.

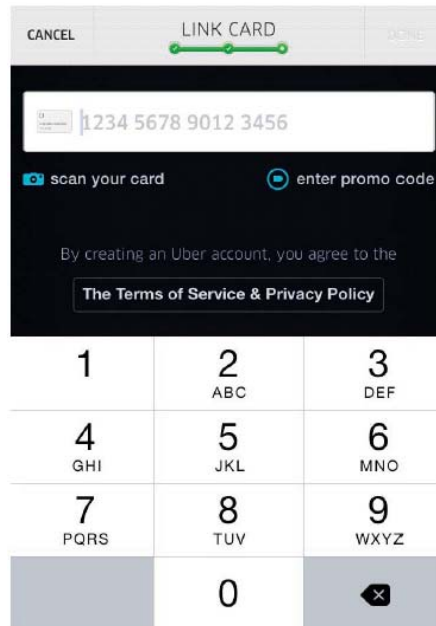
RewardZone USA administers this website and does not claim to represent or own any of the trademarks, tradenames or rights associated with the displayed brands or any of the incentives which are the property of their respective owners who do not own, endorse, or promote RewardZone or this promotion.

[Member Support](#) - [Pricing Status](#) - [Privacy Policy](#) - [Terms & Conditions](#) - [FAQ](#)

# Exhibit 2

## 1. "Link Card"

When confronted with the third screen, Núñez and Schaul were presented with the "Link Card" screen. This is what it looked like:<sup>3</sup>



As depicted in the screenshot above, the screen contained a thick gray bar at the top of the screen with the title "Link Card." To the left of the title was a "CANCEL" button and to the right was an inoperative and barely visible "DONE" button.

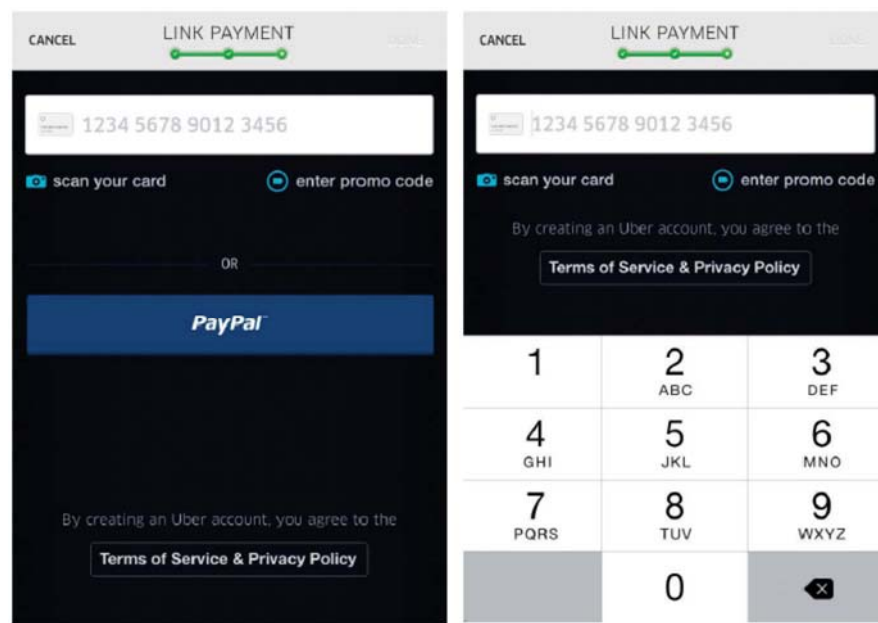
---

<sup>3</sup> The parties do not dispute that the screenshots attached to Uber's motion to compel arbitration accurately depict the content of the Uber App screens presented to the Plaintiffs. The screenshots, however, are larger than the actual size of the average smartphone's display. Because the Plaintiffs contend that the iPhones they used to register with Uber had 3.5-inch displays, we reproduce the screenshots found in the record as they would appear in a smartphone's display that is approximately 3.5 inches, measured diagonally. Uber does not concede that the Plaintiffs' iPhone displays were this size.

Below this text was the phrase "Terms of Service & Privacy Policy" in bold white text enclosed in a gray rectangle. According to Uber, this rectangular box indicated that this phrase was a "clickable button."

## 2. "Link Payment"

Plaintiffs Cullinane and McDonagh confronted a third screen that looked like this:

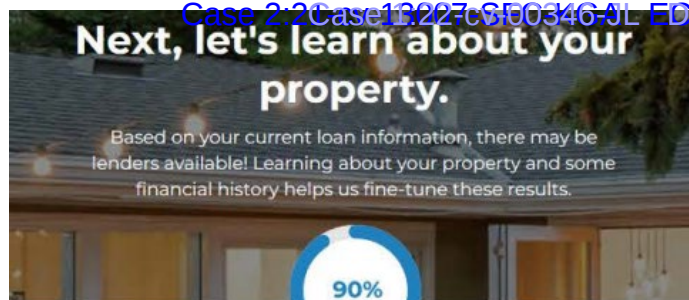


The "Link Payment" screen was very similar to the "Link Card" screen, except that it provided for an additional payment option that altered the screen's initial presentation. Instead of a blank text field for credit card information and the aforementioned number pad, the "Link Payment" screen displayed the blank text field and a large blue button with the PayPal logo.<sup>5</sup>

<sup>5</sup> PayPal is "an internet service to pay for transactions online."



# Exhibit 3



## Next, let's learn about your property.

Based on your current loan information, there may be lenders available! Learning about your property and some financial history helps us fine-tune these results.

90%

"They keep up on interest rates, have **saved me over \$1,000 a month** on my payments AND cut 4 years off the time of my home loan! Amazing!"



Karen V. (Verified Customer)

### How old are you?

Select One

### Employment status

Employed

### Purpose of Taking Cash Out

Select One

### Any bankruptcy in the past 3 years?

Ok to estimate

☐ Yes ☒ No

### Do you currently have an FHA loan?

Federal Housing Administration

☐ Yes ☒ No ☐ I Don't Know

### Do you currently pay for PMI?

Private Mortgage Insurance

☐ Yes ☐ No ☒ I Don't Know

### Number of late mortgage payments in the past 12 months?

None

Privacy Address Book  
We respect your privacy

### Street

### State / City

CA - Los Angeles

### Email Address

We respect your privacy

Calculate

By clicking the button above, you agree to be contacted by LowerMyBills, at the address entered above for promotional emails and consent, electronically via E-sign, to the LMB Lending [Terms of Use](#), [Privacy Policy](#), and Consent to Doing Business Electronically.

Featured Provider

**Quicken Loans**

### Excellent



Based on 19,017 reviews



4 hours ago

### Painless

They made the process easy and painless!

SHANNON WILKES

Showing our 5 star reviews



15 hours ago

### Rocket mortgage is absolut...

Rocket mortgage is absolutely the best. I have refinanced a few times

JOSEPH THULL

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Rocket Mortgage: [E-Mail Policy](#) | [Security and Privacy](#) | [Disclosures and Licenses](#) | [Terms of Use](#) | [Communication Opt-Out](#)

Data is collected by LowerMyBills on behalf of Rocket Mortgage. LowerMyBills is not acting as a lender or broker. The information provided by you to LowerMyBills is not an application for a mortgage loan, nor is it used to pre-qualify you with any lender. If you are contacted by a lender or broker advertising within our network, your quoted rate may be higher depending on your property location, credit score, loan-to-value ratio, debt-to-income ratio, and/or other factors. LowerMyBills does not offer its matching services in all states. This loan may not be available for all credit types, and not all service providers in the LowerMyBills network offer this or other products with interest-only options.

LowerMyBills: [Terms of Use](#) | [Our Privacy](#) | [State Privacy Notices](#) | [Licenses & Disclosures](#) | [Ad Targeting Policy](#)



(000001) (000001) (000001) (000001) (000001) (000001) (000001) (000001) (000001) (000001) (000001) (000001) (000001) (000001) (000001)



**LowerMyBills.com**  
A Core Digital Media Company

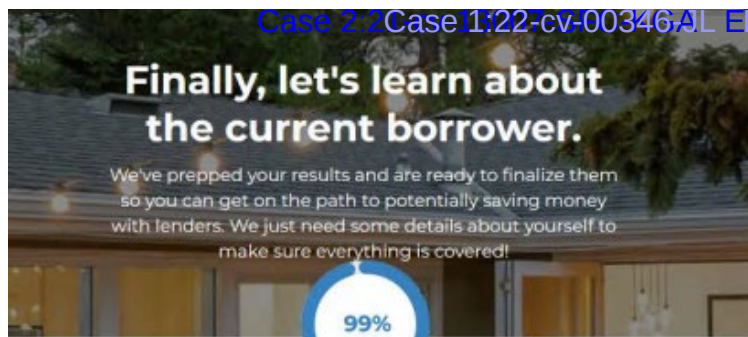
**Calculate**

By clicking the button above, you agree to be contacted by LowerMyBills, at the address entered above for promotional emails and consent, electronically via E-sign, to the LMB Lending [Terms of Use](#), [Privacy Policy](#), and Consent to Doing Business Electronically.

*Featured Provider*

**Quicken Loans®**





"They keep up on interest rates, have **saved me over \$1,000 a month** on my payments AND cut 4 years off the time of my home loan! Amazing!"



Karen V. (Verified Customer)

#### My Current Occupation

Select One

#### Active or previous U.S. military service?

☐ Yes ☐ No

#### Are you or your spouse currently in a VA loan?

☐ Yes ☐ No

#### First Name

We respect your privacy.

#### Last Name

#### Primary Residence

We respect your privacy.

#### Street

Viewed as one scrolling page on mobile – screenshot split for readability

#### City

#### State

#### ZIP Code

#### Phone Number

#### Secondary Phone Number

Optional

Enter your phone number above to receive automated and/or pre-recorded calls only from us and/or the providers that are matched to you.

**Calculate your FREE results**

By clicking the button above, you express your understanding and consent, electronically via e-sign, to the following:

1. To be matched with, and connected by, up to 3 participants in the [LMB Provider Network](#) about mortgage and financial services products, and consent (not required as a condition to purchase a good, service) for us and them to contact you for marketing purposes (including through the use of an automatic telephone dialing system, artificial or prerecorded means) via telephone or text at the phone number provided above (including SMS and MMS), and email, even if you are on a corporate, state or national Do Not Call Registry. You may revoke your consent at any time. You agree that LMB (an Digital Media and [Baker Mortgage](#)) can share your personal data and contact information with third parties, such as mortgage providers, partner companies, and other affiliates, and that these parties may use your personal data and contact information for marketing and analytics, and to make your experience easier. As an alternative, you may contact us by email at [customerservice@coredigital.com](mailto:customerservice@coredigital.com).
2. To the LMB Lending [Terms of Use](#), [Privacy Policy](#), and [Consent to Using Business Electronically](#).
3. And that as a condition of such consent, you are providing express Written Instructions (as defined under applicable law) to LMB to utilize your information in order to reference your consumer credit report for the purpose of validating your self-reported information. Matched Providers will contact you directly to discuss their financial services and products, and to gather additional information, in order to best service your request for information and products.
4. Additionally, if selected above, you consent to be matched to up to an additional 3 providers about [auto services](#), [home improvement services](#), [home insurance services](#), and [other services](#), and consent (not required as a condition to purchase a good, service) for us and them to contact you for marketing purposes (including through the use of an automatic telephone dialing system, artificial or prerecorded means) via telephone at the phone number provided above (including SMS and MMS), and email, even if you are on a corporate, state or national Do Not Call Registry. You may revoke your consent at any time. As an alternative, you may contact us by email at [customerservice@coredigital.com](mailto:customerservice@coredigital.com).



## Calculate your FREE results ➔

By clicking the button above, you express your understanding and consent, electronically via E-sign, to the following:

1. To be matched with, and contacted by, up to 5 participants in the [LMB Provider Network](#) about mortgage and financial services products, and consent (not required as a condition to purchase a good/service) for us and them to contact you for marketing purposes (including through the use of an automatic telephone dialing system, artificial or prerecorded means) via telephone or text at the phone number provided above (including SMS and MMS) and email, even if you are on a corporate, state or national Do Not call Registry. You may revoke your consent at any time. You agree that LMB, Core Digital Media, and [Rocket Mortgage](#) can share your personal data and contact information with third parties, such as mortgage partners, partner companies, and other affiliates, and that these parties may use your personal data and contact information for marketing and analytics, and to make your experience easier. As an alternative, you may contact us by email at [customer care@coredigital.com](mailto:customer care@coredigital.com).

2. To the LMB Landing [Terms of Use](#), [Privacy Policy](#), and Consent to Doing Business Electronically.

3. And that as a condition of such consent, you are providing express Written Instructions (as defined under applicable law(s)) to LMB to utilize your information in order to reference your consumer credit report for the purpose of validating your self-reported information. Matched Providers will contact you directly to discuss their financial services and products and to gather additional information, in order to best service your request for information and products.

4. Additionally, if selected above, you consent to be matched to up to an additional 3 providers about [solar services](#), [home improvement services](#), [home insurance services](#), and [realtor services](#), and consent (not required as a condition to purchase a good/service) for us and them to contact you for marketing purposes (including through the use of an automatic telephone dialing system, artificial or prerecorded means) via telephone at the phone number provided above (including SMS and MMS), and email, even if you are on a corporate, state or national Do Not call Registry. You may revoke your consent at any time. As an alternative, you may contact us by email at [customer care@coredigital.com](mailto:customer care@coredigital.com).

Featured Provider

# Quicken Loans®



**LowerMyBills.com**  
A Core Digital Media Company

# Exhibit 4



## You Are 90 Seconds Away From Better Results!

1
2
3

**Total Debt Amount** \$20,000 - \$30,000

**Your Title**

**Your Age**

**First Name**

**Last Name**





**Email Address**

**Phone Numbers**

Home
(  )  -

Work/Cell

**AS SEEN ON:**

Click to See Your FREE Results

By clicking the button above you agree to be matched with up to 4 professional financial agencies and for them to contact you even if your telephone number is on a corporate, state, or the National Do Not Call Registry, and you agree to our [Terms of Use](#) and [Privacy Policy](#).

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(UNKNOWN) (Q-1) (T-8048) (P-8028) (PG-42040) (S-1)

## You Are 90 Seconds Away From Better Results!

1 — 2 — 3

**Total Debt Amount** \$20,000 - \$30,000

**Your Title**

**Your Age**

**First Name**

**Last Name**

**Email Address**





**Phone Numbers**

Home

(  )  -

Work/Cell

**AS SEEN ON:**

Click to See Your FREE Results!

✓ Recommend
585

By clicking the button above you agree to be matched with up to 4 professional financial agencies, and for them to contact you (including through automated means, e.g. dialing and text messaging) via telephone, mobile device (including SMS and MMS) and/or email, even if your telephone number or email address is on a corporate, state, or the National Do Not Call Registry, and you agree to our [Terms of Use](#) and [Privacy Policy](#). Such providers may convey information on a variety of debt related products and services, including but not limited to debt settlement or consolidation, debt counseling, or bankruptcy, depending on the service information inquiries selected by the consumer.

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(UNKNOWN) (Q-1) (T-8048) (P-8028) (PG-42040) (S-1)



# Exhibit 5

Enter your info so we can personalize your results.

First Name\*

Last Name\*

Phone\*

Street Address\*

Washington, DC 20202 [Change](#)

[See my results! ▶](#)

By clicking the button above, you express your understanding and consent, electronically via E-sign, to the following:

1. To be matched with, and contacted by, up to 5 participants in the **LMB Provider Network** about mortgage and financial services products, and consent (not required as a condition to purchase a goods/service) for us and them to contact you (including through automated or prerecorded means) via telephone or email. You may opt out of this contact at any time by clicking the "Opt Out" link in the email you receive. If you are a corporate, state or national Do Not Call Registry. As an alternative, you may contact us by email at [customerservice@lombard.com](mailto:customerservice@lombard.com).
2. To the LMB Lending [Terms of Use](#), [Privacy Policy](#), and [Consent to Doing Business Electronically](#).
3. And that as a condition of such consent, you are providing for the LMB Lending [Terms of Use](#) (which includes, but is not limited to, the LMB Lending [Privacy Policy](#)) information and you directly to discuss their financial services and products, and to gather additional information, in order to best serve your request for information and products.
4. Additionally, if selected above, you consent to be matched to up to an additional 3 providers about **solar services**, **home improvement services**, and **home insurance services**, and consent (not required as a condition to purchase a goods/service) for us and them to contact you (including through automated or prerecorded means) via telephone or email. You may opt out of this contact at any time by clicking the "Opt Out" link in the email you receive. If you are a corporate, state or national Do Not Call Registry. As an alternative, you may contact us by email at [customerservice@lombard.com](mailto:customerservice@lombard.com).

\*Original story from KSNV regarding Veterans being unaware of mortgage benefits. Lifetime value based on a \$250,000 mortgage with an average rate reduction of .5% (\$940 annual savings) + PMI elimination (\$2,292 annual savings until threshold of equity)

## FAQ about VA Home Loan Benefits

[See What's New](#)

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